(3)

C.S.1002 Single Bench

Before Hon'ble High Court of Chhattisgarh at Bilaspur (C.G.)

W.P. 773 2005

Petitioner :- Kheduram Dewangan S/o Patangram Dewangan
Plantiff R/o Near Sunil Ata Chakki
Shastri Market Nandini Road Bhilai

V/S

Respondent :- (1) Dinganlal Gupta S/o Ramgopal Gupta
Defendent Camp - 2, Kishan Chowk, Power House
Bhilai Thana Chawni, District Durg (C.G.)
(2) State of Chhattisgarh
Through Collector, Durg

Writ Petition under Article 226/227 of Constitution of India

XI-HC-78

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक ..... W.P. 773/ ..... **सन् 200** 5

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	6-10-2005 Mr. R.S. Shrivastava, counsel for the petitioner. None present on behalf of respondent No.1 in spite of service. No representation is made. Mr. Sunil Otwani, Panel Lawyer for the State/respondent No.2. I have heard learned counsel for the parties. By this writ petition under Article 226/227 of the Constitution of India, the petitioner has questioned the legality, propriety and correctness of the orders dated 15-2-2005 & 9-1-2004 passed by the 8th Civil Judge, Class-II, Durg, in Civil Suit No.22-A/2002, whereby learned Civil Judge closed the right of the petitioner to adduce evidence on 9-1-2004 and rejected the application filed by the petitioner herein under Section 151 of the Code of Civil Procedure for allowing him to adduce evidence vide order dated 15-2-2005. Having heard learned counsel for the parties, I have perused the relevant order sheets. On 9-9-2003, the issues were settled and the matter was fixed for 24-9-2003 for filing of the list of witnesses and for fixing the date of evidence. On 24-9-2003, the petitioner herein filed the list of witnesses and the matter was fixed for evidence on 13-10-2003. On 13-10-2003, proceedings could take place on account of the death of some Advocate and the matter was fixed for petitioner's evidence on 7-11-2003. On 7-11-2003, the petitioner herein sought adjournment for adducing the evidence and the matter was fixed for evidence of the petitioner herein on 18-12-2003. On account of declaration of holiday on 18-12-2003, the matter was taken up for hearing on 19-12-2003 and on that day also the	

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आदेश पत्रक (पूर्वानुबद्ध)

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plaintiff's witness was not present, last opportunity to adduce the evidence was given to the petitioner herein and the matter was fixed for 9-1-2004. On 9-1-2004 at about 1 p.m. when the matter was taken up for hearing, counsel for the petitioner herein sought some time to adduce evidence. Accordingly, the matter was called at 3.10 p.m. and at that time, counsel for the petitioner herein requested for half an hour adjustment, that was also allowed and when the matter was taken up 4.45 p.m. the plaintiff and the Advocate both were absent. Therefore, learned Civil Judge closed the evidence of the plaintiff and the matter was fixed for defendant's evidence. Thereafter, on 22-1-2004, the file was requisitioned by the 1st Additional District Judge, Durg, which was received back by the 8th Civil Judge, Class-II, Durg, on 29-11-2004 and the matter was fixed for defendant's evidence. However, for the first time on 1-2-2005 when the matter was fixed for defendant's evidence, the petitioner herein moved an application under Section 151 of the C.P.C. for allowing him to adduce the evidence.

Perusal of the above order sheets show that sufficient opportunity was given to the petitioner herein to adduce the evidence, but the petitioner failed to utilize the same. Even on the last opportunity i.e. 9-1-2004 on the request of counsel for the petitioner herein, the matter was fixed at 3.10 p.m. thereafter, at 4.45 p.m. and when the plaintiff and his counsel were absent, learned Civil Judge closed the evidence. Similarly, the application under Section 151 of the C.P.C. was filed for allowing the petitioner to adduce evidence after about one year one month, till then the plaintiff remained silent.

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आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	-3- Therefore, looking to the above facts, I do not find any illegality or irregularity in the impugned orders, which require no interference by this Court under Article 227 of the Constitution of India. In the circumstances, the writ petition has no merit, same is liable to be dismissed and it is hereby dismissed. No costs. Consequently, M.(W.)P.No.626/2005, I.A.Nos.3854/2005 and 5006/2005 stand disposed of. Sd/- L.C.BHADOO Judge	

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